

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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In the Matter of the Arbitration Between:
TRUSTEES OF THE LOCAL 807 LABOR-
MANAGEMENT HEALTH & PENSION
FUNDS,

Petitioners,

-and-

KONE CORPORATION d/b/a CITY
ELEVATOR,

Respondent.

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MEMORANDUM AND
ORDER

Case No. 18-CV-1478-FB-RML

BLOCK, Senior District Judge:

On November 26, 2018, Magistrate Judge Levy issued a Report and Recommendation (“R&R”) recommending that a default judgment be entered against all defendants in the total amount of \$22,081.27. The R&R further recommended “that respondent be ordered to pay interest on the unpaid contributions at a rate of eighteen percent per year, running from January 19, 2018 until the Award is paid in full.” R&R at 9. The R&R advised that “[a]ny objections to this report and recommendation must be filed within fourteen (14) days,” and that “[f]ailure to file objections within the specified time waives the right to appeal the district court’s order.” R&R at 9–10. The R&R was served on all defendants on

January 16, 2019, making objections due by January 30, 2019. To date, no objections have been filed.

Where clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without *de novo* review. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985); *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court, however, will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000).

No such error appears on the face of the R&R. Therefore, the Court adopts it in its entirety without *de novo* review. Accordingly, the Clerk shall enter judgment in accordance with the R&R.

In light of the parties’ agreement as to the interest to be paid until the Award is paid in full, the judgment shall be increased by \$10.89¹ per day multiplied by the number of days between January 19, 2018, and the day on which the Award is paid

¹ 18% annual interest ÷ 365 days × \$22,081.27 in principal.

in full. The respondent shall not be required to pay any additional post-judgment interest beyond the eighteen percent provided for in the Trust Agreements.

SO ORDERED.

/S/ Frederic Block_____

FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
March 12, 2019